

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ALBERT LOPEZ VICTORY,

Plaintiff,

v.

GEORGE PATAKI, ET AL.,

Defendants.

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**ORDER**  
02-CV-31S

1. On August 21, 2003, this Court referred this case to the Honorable H. Kenneth Schroeder, Jr., United States Magistrate Judge, for all pretrial matters, including hearing and disposition of all non-dispositive motions. On March 31, 2005, Plaintiff filed a Motion to Take Additional Depositions.

2. On March 21, 2006, Judge Schroeder issued a Decision and Order in which he granted Plaintiff's motion in part and denied it in part. Specifically, Judge Schroeder granted Plaintiff's request to depose Jeffrey Weisenfeld, Zenia Mucha and Michael McKean, but denied Plaintiff's request to depose Bradford Race, Rosario Vizzie and Colonel Dan Wiese.

3. On April 4, 2006, Defendants filed an appeal of Judge Schroeder's Decision and Order to the extent it granted Plaintiff permission to depose Weisenfeld, Mucha and McKean. After full briefing on Defendants' appeal, this Court took the matter under advisement without oral argument on May 19, 2006.

4. Pursuant to 28 U.S.C. § 636(b)(1)(A), a magistrate judge may, with certain exceptions, hear and determine any pretrial matter pending before the court. The magistrate judge's order on such a pretrial matter will be reconsidered by the district judge

only when it has been established that it is clearly erroneous or contrary to law. See 28 U.S.C. § 636(b)(1)(A).

5. This Court has reviewed Defendants' appeal and finds that nothing therein compels a finding that Judge Schroeder's Decision and Order is clearly erroneous or contrary to law. Moreover, this Court will not impose the scope and time limitations on the depositions as requested by Defendants. (See Defendants' Appeal, Docket No. 106, pp. 11-12.) Defendants' appeal is denied.

IT HEREBY IS ORDERED, that Defendants' appeal of Judge Schroeder's Decision and Order (Docket No. 106) is DENIED.

FURTHER, that Judge Schroeder's Decision and Order (Docket No. 105) is AFFIRMED in its entirety.

FURTHER, that Plaintiff's Motion to Take Additional Depositions (Docket No. 95) is GRANTED in part and DENIED in part consistent with Judge Schroeder's Decision and Order.

SO ORDERED.

Dated: November 8, 2006  
Buffalo, New York

/s/William M. Skretny  
WILLIAM M. SKRETNY  
United States District Judge